

# LUKAS, NACE, GUTIERREZ & SACHS, LLP

8300 GREENSBORO DRIVE, SUITE 1200  
MCLEAN, VIRGINIA 22102  
703 584 8678 • 703 584 8696 FAX

WWW.FCCLAW.COM

RUSSELL D. LUKAS  
DAVID L. NACE  
THOMAS GUTIERREZ\*  
ELIZABETH R. SACHS\*  
DAVID A. LAFURIA  
PAMELA L. GIST  
TODD SLAMOWITZ\*  
BROOKS E. HARLOW\*  
TODD B. LANTOR\*  
STEVEN M. CHERNOFF\*  
KATHERINE PATSAS NEVITT\*  
CONSULTING ENGINEERS  
ALI KUZEHKANANI  
LEILA REZANAVAZ  
OF COUNSEL  
GEORGE L. LYON, JR.  
LEONARD S. KOLSKY\*  
JOHN CIMKO\*  
J. K. HAGE III\*  
JOHN J. MCAVOY\*  
HON. GERALD S. MCGOWAN\*  
TAMARA DAVIS BROWN\*  
JEFFREY A. MITCHELL\*  
ROBERT S. KOPPEL\*  
MARC A. PAUL\*

\*NOT ADMITTED IN VA

**Writer's Direct Dial:**  
(202) 828-9470  
tgutierrez@fcclaw.com

August 9, 2012

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Re: WT Docket No. 12-69

Dear Madam Secretary:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R., this correspondence constitutes notice of a permissible ex parte presentation in the captioned proceeding.

The meeting transpired on August 8, 2012. Representatives from Cavalier Wireless, LLC and Continuum Wireless, LLC, as set forth below, met with Commissioner Ajit Pai and Courtney Reinhard.

Representing Cavalier was Nash Neyland and representing Continuum were Clark Akers and Billy Mounger. Representing both Cavalier and Continuum were Chip Pickering, Eddie Fritz and the undersigned.

At the meeting, the Commission was urged to act with all due haste in the interoperability NPRM proceeding and that the Commission should focus on the technical and competitive issues involved in interconnection. The arguments included on the enclosure hereto were presented.

Please direct any questions to the undersigned counsel for Cavalier Wireless, LLC and Continuum Wireless, LLC.

Very truly yours,

/s/ Thomas Gutierrez  
Counsel for Cavalier Wireless, LLC and  
Continuum Wireless, LLC

Enclosure

cc: Commissioner Ajit Pai  
Courtney Reinhard

**MEETING WITH THE OFFICE OF COMMISSIONER PAI  
AUGUST 8, 2012**

**I. Attendees**

- Representatives of Commissioner Pai
- Nash Neyland, Principal of Cavalier Wireless, LLC
- Clark Akers, Principal of Continuum 700, LLC
- Billy Mounger, Principal of Continuum 700, LLC
- Chip Pickering, Strategy Consultant
- Eddie Fritz, Strategy Consultant
- Thomas Gutierrez, Communications Counsel

**II. Brief Introduction of the Carriers**

Both Cavalier and Continuum:

- are 700 MHz A Block Licensees (Cavalier holds 23 licenses, Continuum holds 10);
- are *bone fide* DE – Small Businesses;
- have a long history of building and operating in the wireless industry;
- are now contemplating “greenfield” builds for their 700 MHz licenses;
- have undertaken significant efforts to assist in interoperability and Channel 51 issues, and to build out their networks.

**III. Interoperability**

Lack of interoperability severely limits small operators in many different ways:

- no roaming is available to their subscribers;
- no cutting-edge equipment is available;
- there is limited opportunity to provide true 4-G service;
- considerably higher equipment costs;
- no incoming roaming revenues, thereby hampering business plans.

Both Cavalier and Continuum have undertaken numerous actions to date to cause interoperability to become available:

- submitting the initial request for a rulemaking proceeding nearly three years ago;
- participating actively in the current interoperability RM proceeding;
- co-sponsoring empirical engineering studies showing no reason not to have interoperability;
- taking lead roles in attempting to forge an industry solution to interoperability.

**IV. Channel 51 Complications**

These include:

- rapid expansion in Channel 51 authorizations and filings after Auction No. 73;

- incentive auction have created enhanced expectations for Channel 51 licensees;
- Channel 51 operations has substantially greater impact on “greenfield” operators;
- certain recent FCC actions have been very helpful, but fall short of solving the previously existing problems.
- The effect is that right now, construction opportunities are limited, but are expected to improve in the foreseeable future.

## **V. Relief Requested**

### Interoperability

- Decision in the pending interoperability RM proceeding is needed this year.
- Interoperability should be fully implemented in calendar year 2013.

### Interim Build Relief

- The Commission needs to recognize the existence of unanticipated and substantial factors (principally lack of interoperability and Channel 51 complications) that are outside of these carriers’ control and that preclude reasoned build-out.
- The Commission should extend the interim benchmark two years to reflect the above.